

**UNITED STATES DISTRICT COURT  
FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA**

JASON FRINK,

Plaintiff

V.

STELLAR RECOVERY, INC.,

Defendant

**Case No.:**

## COMPLAINT AND DEMAND FOR JURY TRIAL

## (Unlawful Debt Collection Practices)

## COMPLAINT

JASON FRINK (“Plaintiff”), by his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against STELLAR RECOVER, INC. (“Defendant”):

# INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

## JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant conducts business in the State of Pennsylvania and therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

## PARTIES

5. Plaintiff is a natural person residing in Trevese, Pennsylvania, 19053.

1           6.       Plaintiff is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

2           7.       Defendant is a national debt collection company with corporate headquarters  
3 located at 4500 Salisbury Road, Suite 105, Jacksonville, Florida 32216.

4           8.       Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6),  
5 and repeatedly contacted Plaintiff in an attempt to collect a debt.

6           9.       Defendant acted through its agents, employees, officers, members, directors,  
7 heirs, successors, assigns, principals, trustees, sureties, subrogees, collectors, and insurers.

8  
9                                   **FACTUAL ALLEGATIONS**

10          10.       At all relevant times herein, Defendant was attempting to collect a consumer debt  
11 and contacted Plaintiff in its attempts to collect that debt.

12          11.       Plaintiff never incurred any debt in connection with a business or commercial  
13 activities, and therefore, the debt, if truly an obligation owed by him, could only have arisen out  
14 of financial obligation primarily for personal, family, or household purposes.

15          12.       Between October 2015 and November 2015, Defendant contacted Plaintiff on his  
16 cellular telephone, seeking and demanding payment of an alleged debt.

17          13.       Defendant’s calls derived from the numbers including, but not limited to: (215)  
18 391-1776. The undersigned has confirmed that this number belongs to Defendant.

19          14.       Plaintiff informed Defendant in October 2015 that he was unable to make  
20 payments towards the alleged debt given his current financial circumstances.

21          15.       Rather than ending its collection calls, Defendant persisted in its attempts to  
22 secure payment from Plaintiff, knowing he was unable to pay.

23          16.       During a subsequent call, Plaintiff again explained his financial situation,  
24 informed Defendant that he would call them back when he was able to pay, and requested all  
25

1 communication to cease immediately.

2 17. Defendant ignored Plaintiff's repeated request for the collection calls to end and  
3 continued to call Plaintiff.

4 18. Finally, within five days of its initial communication with Plaintiff, Defendant  
5 failed to send Plaintiff written correspondence setting forth his rights pursuant to the FDCPA.

6 19. Defendant's actions as described herein were made with the intent to harass,  
7 upset, deceive, and coerce payment from Plaintiff.

8  
9 **DEFENDANT VIOLATED THE  
FAIR DEBT COLLECTION PRACTICES ACT**

10 **COUNT I**

11 20. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §  
12 1692d and § 1692d(5).

13 21. A debt collector violates § 1692d of the FDCPA by engaging in conduct, the  
14 natural consequence of which is to harass, oppress, or abuse any person in connection with the  
15 collection of a debt.

16 22. A debt collector violates § 1692d(5) of the FDCPA by causing a telephone to  
17 ring or engaging any person in telephone conversation repeatedly or continuously with intent to  
18 annoy, abuse, or harass any person at the called number.

19 23. Defendant violated § 1692d and § 1692d(5) of the FDCPA when it repeatedly  
20 placed calls to Plaintiff's cellular telephone and when it continued to place collection calls after  
21 being informed that Plaintiff was unable to pay.

22  
23 **COUNT II**

24 24. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §  
25 1692f.

1           25. A debt collector violates § 1692f of the FDCPA by using unfair or  
2 unconscionable means to collect or attempt to collect any debt.

3           26. Defendant violated § 1692f of the FDCPA when it continued to place collections  
4 calls, after being informed of Plaintiff's financial situation, absent purpose, other than to harass  
5 Plaintiff.

6  
7                                   **COUNT III**

8           27. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §  
9 1692g(a).

10           28. A debt collector violates § 1692g(a) of the FDCPA by failing after five (5) days of  
11 its initial communication with Plaintiff, to notify him of his rights to dispute the debt and/or to  
12 request verification of the debt, as well as, providing him with the amount of the debt and the  
13 name of the original creditor.

14           29. Defendant violated § 1692g(a) of the FDCPA when it failed to send written  
15 notification, within five (5) days after its initial communication with Plaintiff, advising him of  
16 his rights to dispute the debt or request verification of the debt or providing him with the name  
17 of the original creditor and the amount of the debt.

18           WHEREFORE, Plaintiff, JASON FRINK, respectfully pray for a judgment as follows:

- 19                   a. All actual compensatory damages suffered pursuant to 15 U.S.C. §  
20                   1692k(a)(1);  
21                   b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to  
22                   15 U.S.C. § 1692k(a)(2)(A);  
23                   c. All reasonable attorneys' fees, witness fees, court costs and other litigation  
24                   costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and  
25                   d. Any other relief deemed appropriate by this Honorable Court.

**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, JASON FRINK, demands a jury trial in this case.

Respectfully submitted,

Dated: October 27, 2016

By: /s/ Amy L. B. Ginsburg  
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